

**MINUTES**  
**REGULAR QUARTERLY BOARD MEETING**  
**TEXAS BOARD OF PROFESSIONAL ENGINEERS**  
**SOUTH INTERSTATE 35**  
**AUSTIN, TX 78741**  
**February 16, 2017 – 10:30 AM**

**Call to Order.** Dr. Daniel O. Wong, P.E., Presiding Officer, called the Regular Quarterly Board meeting of the Texas Board of Professional Engineers to order at 10:31 am on February 16, 2017, at the Texas Board of Professional Engineers, 1917 S. Interstate 35 in Austin, Texas. A quorum was present. (Note: all votes are unanimous unless noted)

**1. Roll Call and Welcome Visitors.**

Daniel O. Wong, Ph.D., P.E.	Chair
Sam Kannappan, P.E.	Vice-Chair
Sina Nejad, D.Eng. P.E., P.Eng.	Secretary
Edward Summer, Ph.D.	Treasurer (absent)
Lamberto “Bobby” Ballí, P.E.	Member
Albert Cheng	Public Member
Catherine Norwood, P.E.	Member
Elvira Reyna	Public Member
Kyle Womack, P.E.	Member

A quorum was present. Ms. Veena Mohan, Assistant Attorney General, was present to provide legal counsel to the Board. Mr. Edmundo Gonzalez, P.E., Mr. Jose I. Guerra, P.E., and Govind Nadkarni, P.E., Advisory Members, were present.

The following staff members were present:

Lance Kinney, Ph.D., P.E.	Executive Director
David Howell, P.E.	Deputy Executive Director
Dave Daigle	Director of Compliance & Enforcement
Jeff Mutscher	Chief Financial Officer
Morgen Cuming, JD	Staff Attorney
Dorothy Gonzales	Executive Assistant

**Visitors:** Kent O’Brien, P.E., Texas Department of Transportation (TxDOT); Terry Bilderback, P.E., Texas Society of Professional Engineers (TSPE); Peyton McKnight, American Council for Engineering Companies (ACEC); Steven Blake, P.E., Blake Engineering; David Turlington, Attorney for Mr. Blake; Doug Bell, P.E., TSPE.

**2. Public Comment.** None.

**3. Consent Agenda.**

**(The following items may be acted upon under Consent Agenda and are marked with an asterisk\* on the Regular Quarterly Board Meeting Agenda)**

*(Motion Required)*

- November 16, 2016, Licensing Committee Minutes
- November 17, 2016, Enforcement Committee Minutes
- November 17, 2016, General Issues Committee Minutes
- November 17, 2016, Regular Quarterly Board Meeting Minutes
- Administrative Reports, Outstanding Administrative Penalties  
Dismissed Cases
- Licensing Applications.

It was MOVED/SECONDED (Ballí/Womack) to approve the Consent Agenda as submitted. A vote was taken and the MOTION PASSED.

**Discuss and Possibly Approve Board Minutes:**

4. **\*(Consent Agenda)** Discuss and possibly approve minutes of the November 17, 2016, Regular Quarterly Board Meeting
5. **\*(Consent Agenda)** November 17, 2016, General Issues Committee Minutes

**Discuss and Possibly Accept Committee Minutes:**

6. **\*(Consent Agenda)** November 16, 2016, Licensing Committee Minutes
7. **\*(Consent Agenda)** November 17, 2016, Enforcement Committee Minutes

Agenda items 4-7 were approved under Consent Agenda, see Agenda Item #3, above.

**Discuss and Possibly Act on the following agenda items (8-23):**

**8. Board Members' Activity Reports.**

*(Report – submitted in accordance with §131.11 (g))*

- Ballí
- Cheng
- Kannappan
- Nejad
- Norwood
- Reyna
- Summers
- Womack
- Wong

**9. Advisory Members' Activity Reports.**

- Gonzalez
- Guerra
- Nadkarni

Dr. Wong commented that the Board and Advisory Members' reports are included for information only.

Dr. Wong took agenda item #19 out of order, see below.

**10. Finance and Budget.**

**• FY17 1<sup>st</sup> Quarter Budget.**

Mr. Mutscher reviewed the first quarter budget report with Board members which is included as an exhibit. Mr. Mutscher said expenditures are on target. He commented that general revenue monies from professional fees and administrative penalties have been remitted to the Comptroller. The budgeted fund balance trend is also included. The end of February will mark the 2<sup>nd</sup> quarter and we are still on target. Mr. Mutscher gave a brief update regarding the roof. He commented that the contract will be awarded in April and construction on the roof should begin within 30 days of the awarded contract.

Mr. Mutscher added that the first draft of the FY2018 budget will be presented during the May meeting.

**Discuss and Possibly Act on Issues Regarding Committee Reports or Items on the Committee Agendas:**

**11. Licensing Committee meeting summary (February 15, 2017).**

- **Personal Appearances from Licensing Applicants:**
  - Cruz, Daniel
  - Jordan, Paul
  - Gilcrease, Brad
  - Ganser, Nadia
  - Dellose, John
  - Peterson, James
  - McCammon, Alexander
  - Rios, Fabiola
  - Karlik, John
  - Ebmeier, Ryan

Dr. Nejad shared that there were 10 personal appearance that came before the Licensing Committee.

It was MOVED/SECONDED (Nejad/Ballí) that Daniel Cruz, John Dellose, Brad Gilcrease, and Paul Jordan be approved for licensure; Ryan Ebmeier be approved for licensure pending satisfactory completion of the Level I Ethics course; Nadia Ganser be approved for licensure

contingent on passing the PE exam; John Karlik be approved for licensure pending successful completion of the Level I Ethics course; Alexander McCammon be approved for licensure pending successful completion of the PE exam; James Peterson's application be placed on hold until he has successfully completed the Level II Ethics course and 1 additional year of practice without criminal incident; and Fabiola Rios be approved for licensure pending successful completion of the Level I Ethics course and successfully passing the PE exam. A vote was taken and the MOTION PASSED.

#### 12. Enforcement Committee Meeting summary (February 16, 2017).

- **Discuss and possibly approve the following rule proposals to be posted in the Texas Register for comment**
  - **137.19, Engineers to be qualified Windstorm Inspectors-Repeal**
  - **139.35(b), Sanctions and Penalties**

Mr. Ballí reported that staff presented two rules to be considered and posted in the Texas Register for comment. The rule changes are to comply with Legislative laws passed in the 84<sup>th</sup> session regarding Windstorm. Rule 137.19 will be repealed and §139.35 (b) will remove Windstorm sanctions and penalties from the Sanction table.

It was MOVED/SECONDED (Ballí/Womack) to approve §§137.19, Engineers to be qualified Windstorm Inspectors-Repeal and 139.35 (b) remove Windstorm sanctions and penalties from the Sanction Table to be posted in the Texas register for comment. A vote was taken and the MOTION PASSED.

- **Review of the Sanction Table and Worksheet.**

Mr. Ballí reported that the Sanction Table and Worksheet was tabled at the November Board meeting for additional clarification from staff. Mr. Daigle has reviewed the process and method with Dr. Summers, and he agrees with the recommendations by staff.

It was MOVED/SECONDED (Ballí/Kannappan) to approve the revised Sanction Table and Worksheet as presented. A vote was taken and the MOTION PASSED.

#### 13. Legislative Committee Meeting summary (February 16, 2017).

- **Summary of Legislative activities.**

Mrs. Reyna reported that Mr. Howell presented the Committee with a list of all the bills being tracked by the Board. The bills included in the report are regarding the engineering profession, those impacting administrative procedures, and those impacting personnel. She added that Mr. Howell will keep all the Board members abreast of any actions taken that may affect the Board in any way. No action was taken at the meeting. Mr. Howell commented that at this point it is mostly administrative processes going on. One bill was filed that proposes active supervision of regulatory agency rules and enforcement actions under the Attorney General Office. He added that at this point the bill has not been assigned to a committee. Dr. Wong strongly expressed that the Board will not lobby or advocate for or against any bill.

#### 14. Policy Advisory Committee Meeting summary (February 16, 2017).

Mr. Womack reported that the Committee addressed one issue regarding the registration requirements for the Subsidiaries or Branch of a Parent Company. Mr. Womack gave kudos to Mr. Daigle for his research of this request. The Committee discussed all the information presented as well as the staff recommendation response. The Committee unanimously agreed that the staff recommendation presented addressed all the questions asked.

- **EAOR #41, Registration Requirements for Subsidiaries or Branch of a Parent Company**
- **TBPE's staff proposed response to EAOR#41**

It was MOVED/SECONDED (Womack/Nejad) to approve the TBPE staff response presented to the Committee as submitted. A vote was taken and the MOTION PASSED.

## Discuss and Possibly Act on Reports or Items reported by the Executive Director:

### 15. Executive Director's Report.

- **Daily Activity Report.** Dr. Kinney commented that his report was included as an exhibit and would be glad to answer any questions.
- **IH 35 Expansion.** Dr. Kinney gave an update on the IH 35 expansion which included the Board's easement portion. He added that staff did meet with Texas Department of Transportation regarding the use of the easement. He commented that a sidewalk/pedestrian walkway will be built. He also mentioned that the Board does have representation from the Attorney General Office that has experience with land acquisition issues.
- **Strategic Plan/Journey Towards Excellence (JTE).** Dr. Kinney reported that strategic teams are moving along. Dr. Kinney added that this would be the 3<sup>rd</sup> year for TBPE to sponsor the senior science fair projects at the Texas State Science Fair. He invited the Board members to participate as volunteers. He also added that the Board will also be involved with Texas Alliance with Minority Engineering (TAME) state event and sponsor an award with TAME. Board staff also participates with Math Count grading process. Dr. Kinney also shared that over the last several years ASCE and other engineering societies have been working on an engineering film called "DREAM BIG" and encourages Board members to see the movie and spread the word amongst the engineering community. It's meant to be an educational tool, and the Board is supporting through our outreach events. Dr. Kinney reported that TBPE has developed a new online system to allow licensees to pay late fees on line. Dr. Kinney thanked everyone for their support and contribution to the State Employee Charitable Campaign (SECC). The Board will be recognized in the category 25-50 employees in the Highest Employee per Capita and Highest Employee Participation. He also shared the changing of the TBPE 80<sup>th</sup> Anniversary logo for use on the banner, letterhead, website, shirts, hats, and other giveaways.
- **International Licensure.** Dr. Kinney mentioned that communication is still open with Mexico. The Board has had additional contact with Spain.
- **National Council of Examiners for Engineering and Surveying (NCEES) Meetings.**
- **Board Presidents' Meeting.** Dr. Kinney reported that he and Mr. Ballí attended the NCEES Board Presidents' meeting. He shared with NCEES what Texas is working on. Mr. Ballí commended Dr. Kinney on his report and added that he represented not only the MBAs but also the Texas Board. He added that discussions regarding on-going Computer Based Testing (CBT) for the PE Exam is going on a phase roll-out. He projected that in 4 to 5 years paper exams will be eliminated.
- **Upcoming Southern Zone (SZ) Meeting.** Dr. Kinney invited all Board members to attend the Zone meeting.
  - **Nomination of Lamberto "Bobby" Ballí, P.E. for Southern Zone Assistant Vice-President.** Dr. Kinney commented that Mr. Ballí will be up for election of the SZ Vice-President position at the April SZ meeting. Dr. Kinney mentioned that a letter on behalf of the Board members will be sent out supporting and requesting support from the SZ state boards.
- **NCEES Leadership Program-Visit to State Boards.**
  - **Gary Thompson, NCEES Treasurer-Visit with Texas Board-May 2017.** Dr. Kinney commented that Mr. Thompson will be visiting Texas and share information from zone meetings and NCEES's role with our Board. He added that the meeting will be a dinner meeting after the Licensing Committee meeting.
- **Outreach.** Dr. Kinney mentioned that the ethics webinars have been a big hit, and Board staff is still going out to make presentations. He added that the Board is now able to add more participants to each webinar. He also shared that our student webinars are also very successful. Dr. Kinney mentioned that Mr. Daigle is in his last part of outreach presentation training.
- **Kudos.** He asked Board members to review the kudos sent in about staff.

**Discuss and Possibly Act on Enforcement/Disciplinary Matters:**

16. **\*(Consent Agenda) Administrative Reports, Outstanding Administrative Penalties, Dismissed Cases.**

*Report to full Board pursuant to Board rule §139.21*

17. **Agreed Board Order.**

Practice Violations

1. Thomas Joseph Mazingo, P.E. – D-36435 (Norwood - recused)

It was MOVED/SECONDED (Womack/Nejad) to accept the Agreed Board Order as submitted. A vote was taken and the MOTION PASSED. Norwood abstained from voting.

18. **Consent Orders.**

Informal Reprimands (*In accordance with Board Rule 139.31(b) individual names are not listed*)

1. D-36848
2. D-36816
3. D-36847
4. D-36768
5. D-36845

Non-Practice Violations

6. Daniel Patrick Lilley, P.E. – D-36781.
7. Bhupendrakumar V. Patel, P.E. – D-36840.

Sanctions Against Non-License Holders

8. Godwin Amekuedi – B-36756.

Firm Registration/Sole Proprietorship

9. LS3 Engineering – B-36590.

It was MOVED/SECONDED (Ballí/Womack) to approve the Consent Orders as submitted. A vote was taken and the MOTION PASSED.

19. **Discuss and possibly act on reconsideration of May 26, 2016, Agreed Board Order:**

- Stephen P. Blake, P.E. (D-35916-Nejad)

Mr. Daigle gave the Board members gave a summary of sanction from the Agreed Board order approved by the Board in May 26, 2016. He added that the date on the certificate of completion from Texas Tech for the ethics course was past the due date of the required completion date as stated in the Agreed Board Order. Therefore, Mr. Blake's probation was lifted and his license suspended on December 19, 2016, and is scheduled to remain suspended through May 26, 2017. Mr. Blake introduced himself and his attorney Mr. Dave Turlington. Mr. Blake commented that he was informed by Texas Tech that his completion date of the ethics course would be the date of his last submittal which was November 9, 2016. He shared a timeline of events that lead to the completion date of his ethics course on December 7, 2016. He added that he was having a difficult time understanding the true date of completion of course. Mr. Turlington added Mr. Blake was on a timely schedule and submitting all his assignments on time, and they were returned in 7 to 10 days. It was only the seventh assignment that Texas Tech took longer to review/grade and return to Mr. Blake. He believes Mr. Blake had no control of leave taken by the professor grading his work. He added that Mr. Blake has complied with all other requirements on the Agreed Board order in a timely manner.

Dr. Nejad, who was the Board member involved with the case, shared that it is the responsibility of the Licensee to make sure that all requirements will be met in a timely manner.

Ms. Norwood pointed out information received from Texas Tech concerning the actual timeline of Mr. Blake's ethics course submissions and whether they were actually complete. Texas Tech indicated that some of the work submitted was not complete and the need for corrections was what ultimately made the materials late. Texas Tech indicates that the date of completion is the date that the final complete materials are received. Therefore, the course was actually completed on December 7, 2016, as indicated, which was after the due date set in the Agreed Board Order.

Mr. Ballí asked Mr. Blake to share his experience learned from his course. Mr. Blake shared his experience and lessons learned from taking the ethics course.

It was MOVED/SECONDED (Ballí/Reyna) to require Mr. Blake to resolve the issue regarding his suspension, and only after acceptable review by Dr. Kinney or Mr. Howell and with no additional infractions allow re-licensure effective March 1, 2017 but remain in a probated status.

After further discussion among Board members and additional information regarding additional enforcement cases in progress, the motion was withdrawn by both Board members.

Mr. Blake commented that there are additional current enforcement investigations concerning other issues and that both events occurred before his current suspension.

It was MOVED/SECONDED (Norwood/Cheng) to keep the Agreed Board order as agreed upon in May 26, 2016. A vote was taken and the MOTION FAILED. Cheng, Norwood-for; Ballí, Reyna, Womack-against; Kannappan; Nejad-abstained.

It was MOVED/SECONDED (Ballí/Kannappan) to reduce the suspension to March 19, 2017. A vote was taken and the MOTION PASSED 4 to 2; Cheng, Norwood-against; Dr. Nejad abstained.

Chair returned to agenda item #10, see above.

## 20. SOAH Final Orders.

- **Ragu Sada – Case B-35585 [SOAH Docket No. 460-16-5755]**

Ms. Cuming reported that Mr. Sada has been issued a SOAH final order because the Administrative Law Judge (ALJ) found that he illegally and intentionally practiced as a professional engineer and placed a fraudulent seal on a legal document; his firm also unlawfully provided professional engineering services without employing a licensed professional engineer.

It was MOVED/SECONDED (Womack/Ballí) to approve the SOAH Final Order for Mr. Ragu Sada-Case B35585 as presented. A vote was taken and the MOTION PASSED.

- **Rifaat Sammy Salem, P.E. #104269 – Case D-36321 [SOAH Docket No. 460-16-4777]**

Ms. Cuming reported that Mr. Salem has been issued a SOAH final order because the ALJ found that Mr. Salem had assisted a non-registered firm in the unlawful practice of engineering in another jurisdiction, and in if he had done this in Texas, he would have violated Texas codes and laws. The ALJ assessed that Mr. Salem should not be assessed an administrative penalty.

It was MOVED/SECONDED (Nejad/Womack) to approve the SOAH Final Order for Rifaat Sammy Salem, P.E. #104269 – Case D-36321 as presented. A vote was taken and the MOTION PASSED.

## Discuss and Possibly Act on Licensing Applications requiring board ruling:

### 21. **\*(Consent Agenda) Licensing Applications.**

*Vote or Reconfirm Votes Pursuant to Board Rule §133.87:*

- Approved for Exams
- Approved for Licensure
- Firms Approved
- Waivers – FE
- Waivers—Both
- Exams Not Approved
- Not Approved for Licensure

Agenda item #21 was approved under Consent Agenda, see Agenda Item #3 above.

**Discuss and Possibly Act on Other Matters**

**22. Issues from the Board member to consider for next scheduled Board Meeting.**

Staff was directed to research having Board meetings outside of Austin.

**23. Adjourn.**

It was MOVED/SECONDED (Ballí/Womack) to adjourn the meeting at 12:18am. A vote was taken and the MOTION PASSED.

Date Board approved minutes as submitted:            May 25, 2017